

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2281 OF 2004

Shobha Suman Co-operative Housing
Society Ltd.

..Petitioner.

Vs.

The State of Maharashtra & Ors.

..Respondents.

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Mr. Snehar Shah i/b Narayanan & Narayanan for the Petitioner.
Mr. Sharukh Kathawala with Mr. Anurag Gokhale i/b Divya Shah
for Respondent N.4.

Mrs. A.R. Joshi for the BMC.

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CORAM: DR. D.Y. CHANDRACHUD, J.

28th November, 2006.

P.C. :

After the Petition has been heard, counsel appearing for the Petitioner and the Fourth Respondent, who are the contesting parties are agreed to the following order being passed by consent and without the further recording of reasons :

i) The orders passed by the Divisional Joint Registrar on 23rd April, 2004 in Application 2 of 2003 and by the Appellate Authority on 16th July, 2004 are quashed and set aside in view of the fact that neither of the two authorities had the benefit of considering the report of M/s. Parelkar & Dallas dated 4th

November, 2004 and of the Municipal Corporation dated 13th May, 2005 in pursuance of the interim orders passed by this Court on 7th October, 2004 and 8th December, 2004. Both the reports submitted by M/s. Parelkar & Dallas and by the Municipal Corporation confirmed the existence of 41 residential tenements in the building;

ii) The disposal of the application filed by the Fourth Respondent in the terms recorded herein above shall not, however, preclude the Fourth Respondent from filing a fresh application within a period of eight weeks and in the event that any such application is filed, the competent authority shall deal with the same in accordance with law after hearing all the concerned parties including the Petitioner herein;

iii) The Petitioner would be at liberty to move the Municipal Corporation for the purpose of amending the sanctioned plan so as to bring the total number of tenements under the sanctioned plan in accordance with the actual number of tenements viz. 41 as they exist at site, as certified by the report of M/s. Parelkar & Dallas. Counsel appearing for the Municipal Corporation has stated that in

the event that an application in accordance with law in compliance with the provisions of Section 337 of the Mumbai Municipal Corporation is submitted by the Petitioner, the application shall be disposed of as expeditiously as possible and in any event within a period of six months of the date of submission of a complete application.

All the rights and contentions of the parties therein including such objections as the Fourth Respondent may have in regard to the number of tenements are expressly kept open. In the event that the Petitioners are aggrieved by the decision of the Municipal Corporation, it will be open to them to take necessary steps in accordance with law for pursuing the legal remedies.

The Petition is disposed of in the aforesaid terms.